

RECEIVED

APR 29 2019

AT 8:30 _____ M
WILLIAM L. WALSH
CLERK

Ivan G. McKinney #60132/
New Jersey State Prison
P.O. Box 861
Trenton, NJ 08625

United States District Courthouse

Attn. Hon. Judge Freda Wolfson U.S.D.J.

402 E. State Street

Trenton, N.J. 08625

McKinney v. Fitzgerald
etal 3:18-cv-12987
FLW-LHG

Dear Hon. Judge Wolfson:

04-24-19

I have sent my documents to show cause.

I recieved a document from this Court dated
04-18-19, telling me my documents to show
Cause was recieved. I am enclosing my

Grievence that I filed on the 03-28-15
incident in the above captioned matter.

I believe this grievence is critical for my
best evidence in that portion of the
several claims filed. Also, you will see from
this grievence the institution failed to identify
the officer name John Doe in the matter.

Thank You so much!

Sincerely yours,
Ivan McKinney

Form IRSF-100

NEW JERSEY DEPARTMENT OF CORRECTIONS
(DEPARTAMENTO DE CORRECCIONES DE NUEVA JERSEY)

NJSP-007262

INMATE GRIEVANCE
(QUEJAS DE LOS RECLUSOS)

You must file a formal grievance within 14 business days of the unsuccessful outcome of an informal complaint.

Did you file an informal complaint about this issue? Yes ☒ No ☐ If so, with whom? Grievance Coordinator Date: 03-28-15
Please attach a copy of the Inmate Inquiry Form indicating that you attempted to resolve this complaint.

PART (PARTE 1)

INMATE'S NAME (NOMBRE): Ivan McKinney SBI NUMBER (NUMERO DE SBI): 255755L DATE (FECHA): 05-17-15INSTITUTION: N.J.S.P. HOUSING UNIT: 6-L
(INSTITUCION) (UNIDAD DE VIVENDA)

****PLEASE RETAIN PINK COPY FOR YOUR RECORDS

TYPE OF GRIEVANCE (Only Check one box)
TIPO DE SOLICITUD (SOLO UNA CASILLA)

ADA <input type="checkbox"/>	Custody <input checked="" type="checkbox"/>	Mailroom <input type="checkbox"/>	SID <input type="checkbox"/>
Administrative Offices <input type="checkbox"/>	Education <input type="checkbox"/>	Medical/Dental/Mental Health <input type="checkbox"/>	Social Services <input type="checkbox"/>
Business Office <input type="checkbox"/>	Food Service <input type="checkbox"/>	Parole <input type="checkbox"/>	Visits <input type="checkbox"/>
Classification <input type="checkbox"/>	Law Library <input type="checkbox"/>	RCRP/Comm Programs <input type="checkbox"/>	

State Your Grievance (Who, What, Where & When): You are way over your 15 day deadline to respond regarding my 03-28-15 sexual Assault ^{Search} allegation regarding OFF. John Doe. And the retaliatory search done by Sgt. Fitzgerald, OFF. Smalls, and Forbes. You have not giving me the identity of OFF. John Doe neither. I request a response right a way because your already late. Thank You! And for the record OFF. Smalls continue to retaliate in the Rotunda by having other officers target search me. I invoke my right against further Retaliation.

PART (PARTE 2): No action taken on this form. DOC Redirection form issued with paragraph(s)# _____ marked.
[No se tomó ninguna medida en este formulario. Se proveyó el formulario de DOC Redirection Form con el (los) párrafo(s)# _____ indicado(s).]

CASE NUMBER: 15 05 0138
(NUMERO DEL CASO) YEAR (AÑO) MONTH (MES) CASE NUMBER (NUMERO DE CASO)

RECEIVED BY: AMS DATE FORWARDED TO DEPT: 5/28 DEPARTMENT: SID
(RECIBIDO POR) (FECHA EN QUE SE ENVIO AL DEPARTAMENTO) (DEPARTAMENTO)

PART (PARTE 3) STAFF RESPONSE AREA (AREA DE RESPUESTA DEL PERSONAL):

Your allegation is being looked into by SDO

STAFF SIGNATURE (FIRMA DEL PERSONAL) 5/28/15 DATE (FECHA)

SIGNATURE OF ADMINISTRATIVE DESIGNEE (Firma del La Persona Administrativa Correspondiente Designado Por El) 5/28/15 DATE (FECHA)

PART (PARTE 4) INMATE'S ADMINISTRATIVE APPEAL INFORMATION (INFORMACIÓN DE APELACION ADMINISTRATIVA DEL CONFINDA):

I will await a response from you once SID makes its determination.

ADDITIONAL ATTACHMENTS:
(DOCUMENTOS ADJUNTOS ADICIONALES)

Ivan McKinney 06-07-15
INMATE'S SIGNATURE (Firma Del Confinado) DATE (FECHA)

PART (PARTE 5)

DATE APPEAL RECEIVED:
(FECHA EN QUE SE RECIBIO LA APELACION)DATE APPEAL RETURNED:
(FECHA EN QUE SE DEVOLVIO LA APELACION)

APPEAL DECISION AND ADMINISTRATOR'S COMMENTS: ☐ UPHELD (CONFIRMADA) ☐ MODIFIED (MODIFICADO) ☐ DENIED (NEGADA)

NOTED.

AMS 6/9/15
ADMINISTRATOR'S SIGNATURE (FIRMA DEL ADMINISTRADOR) DATE (FECHA)

Distribution: (Original) [Original] Department of Corrections Request / Remedy File Copy [Copia del Archivo de Petición / Remedio del Departamento de Correcciones]
(Yellow) [Amarillo] Inmate's Copy (Original / and if required Appeal answer) [Copia del Confinado (Original/y si se requiere la Contestacion de Apelación)]
(Pink) [Rosado] Inmate's Copy [Copia del Confinado]

CC: Jeffrey Stainfold ESQ Marcos Lora ESQ PREA Federal / State Office
Steven Dratch ESQ Bonnie Watson Coleman

As I was walking away I said to the officer, "Why did you touch me inappropriately like that. He looked with like a chuckle on his face and his hand over his name badge. Two seconds after that I said "Sgt Fitzgerald can I talk to you, I said "This officer touch me inappropriately". Sgt. Fitzgerald said "I will show you ~~how~~ inappropriately go sit your ass on the Chapel stairs so we can strip you down." About 2 minutes after I sat on the chapel stairs OFF. Smalls and OFF. Forbes and Sgt. Fitzgerald Strip me down naked. While I was stripping down the Sgt continued to taunt me. He said "How long you been here in the building and how many people have searched you". I said "I have been here for almost 2 years, and I don't know how many people have searched me." Sgt Fitzgerald said "Why does your state # start with a 6 how you only here 2 years?" He said "You just except the searches you hear me!" I said "I have did Security for years and I come from a family of cops," And this search was inappropriate and Sexual. I said "Sgt., Why are you stripping me naked for complaining about your officer touching me in a Sexual manner". I said "This is cruel and unusual punishment that you are stripping me for being Sexually assaulted." I told him I ask the officer why he did it, but he did not respond. "So I told you as a supervisor what happen." I was distraught at that point. To add insult to injury several other

officers came up to the chapel. OFF Jones, and another OFF John Doe, Sgt Lindsey, and Sgt. Lindsey was very aggressive for no reason. OFF. Jones and another OFF John Doe stood by quietly. Sgt. Fitzgerald told me you can go to church now. I was about to walk that way but I was distraught to go to church after that ordeal. So when I got back to b-l the area Sgt. asked "Where do you lock." I told him cell 44 and very nastily he said "You better get there". When I left the Rotunda area Lt. John Doe said real nastily "Just go back". Instead of him as a supervisor talking to me about being sexually assaulted. OFF. John Doe sexually assaulted me and these supervisor's added insult to injury. A. I was subject to Sexual Assault B. I was again Sexually Assaulted by being stripped naked for complaining about a Sexual Assault. C. I was taunted and retaliated against by Sgt. Fitzgerald along with being subject to cruel and unusual punishment. D. I was violated by Sgt. Lindsey Lt. John Doe Sgt. Fitzgerald^{and etc.} for not treating me like a victim as a oppose to a perpetrator. E. The area Sgt. John Doe response to me was not a way to treat a victim. I was subject to Sexual Assault, retaliation, humiliation, cruel and unusual punishment, harassment and etc. I made a constitutionally protected complaint of Sexual Assault and all officer's Sgt's Lt's except OFF Jones and another OFF John Doe violated my civil Rights. At this time I invoke my right to be free from any

retaliation such as: Cell searches, cell moves, Harassment by Custody, deprivation of certain freedoms protected by Law. Cruel and unusual Punishment such as placing me in a 2 Man Cell as punishment for making this complaint. I invoke my 1st 8th and 14th Amendments and etc.. Such arbitrary Capricious and Rogue practices are unlawful/not within the spirit of State and Federal Laws. And as a matter of Law amounts to a violation of state and Federal law (NJ Const. Article I, Par 5; US Const. 8th amendment prohibition against Cruel and unusual punishment; U.S. Const 14th amend right to equal protection of the Law). N.J. A.C.) N.J.A.C. 10A: 4-3 1(A) (4) creates a protected state created liberty interest right. A liberty interest right can arise from the U.S. Constitution or State Statutes or regulations, i.e.

N.J. A.C. (New Jersey Administrative Code) which trigger a right and entitlement which cannot be taken away without affording due Process. *Hewitt v. Helms* 453 U.S. 460 (1983) These officers must be retrained and come in compliance with N.J. A.C. 10A: 4-3.1 (A) (1); Corrections officers' Professional Code of Conduct which mandates that "Officers maintain the highest degree of Professionalism and self Control at all times." Pursuant to article II, Section 4. I'm invoking my 1st amendment right U.S. Const. right to Free from any reprisal or retaliatory action by staff colleagues or Prison officials for exercising this constitutionally

protected Conduct. As a matter of Law Prisoner's Complaints be it oral or written complaints are protected by the 1st and 14 Amendment of the U.S. Constitution. And must be free from retaliation or being penalized for exercising such rights. *Peerson v. Welborn* 471 F.3d 732 (7th Circuit 2006); *Grenning v. Bisson* 382 Fed. Appx. 574 (9th Circuit 2010) Reprisal in the sense of arbitrary, Capricious, unlawful harassment, discrimination, business official misconduct, official oppression, unprofessionalism, unlawful searches of person or property unlawful or mis handling or destruction Confiscation of personal Property, illegal and or relocation, Wrongful and unlawful termination of institutional job assignment, Falsifying of disciplinary reports, deprivation of any rights, Privileges or arbitrary, Capriciously without any legitimate penological interest, Creative of a hostile environment for this reporting inmate, etc.. Sgt Fitzgerald told me "I will just say I felt like you may have had something you were hiding because you complained to me." I complained after the search was over, If I had anything why bring light to myself. I was complaining of being Sexually assaulted that's it. Sgt. Lindsey created a hostile environment when he came to the chapel area aggressive. Both Lt. John Doe and Sgt. Fitzgerald etc. refused to give me John Does Name. Sgt. Fitzgerald said "Ask the officer, but this officer had vanished. I want the tape pulled and a full investigation and I want ~~to see~~ SID notified immediately. I need to ID John Doe

CC:
 Steven Dearth
 Jeffrey Stein
 Marcos Lora
 Congresswoman
 Bonnie Watson
 Coleman
 Commissioner
 Gary Lanigan
 Senator Shirley
 Turner
 Rev. Al Sharpton
 N/A
 Umbuckman
 Office
 Mayor
 Glenis Lewis
 Senator
 Barbara Buono

Ivan G. McKinney #601321
N.J.S.P.
P.O. Box 861
Trenton, NJ 08625

~~EX-100~~

United States District Court
Attn. Hon. Judge Freda Wolfson U.S.D.-J.
402 E. State Street
Trenton, NJ 08625

John 3:16
Legal - Mail

04-24-19